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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Pravin T.P. Kaumaya

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08/31/2005

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EXAMINER

OUSPENSKI, ILIA I

ART UNIT

PAPER NUMBER

1644

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,574

Applicant(s)

KAUMAYA ET AL.

Examiner

ILIA OUSPENSKI

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,10,13,17,18,20,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) 17,18,20,26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,10 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment/remarks, filed 06/17/2005, is acknowledged.

Claims 2, 7-9, 11, 12, 14-16, 19, 21-25, and 28-32 have been cancelled.

Claims 1, 4-6, 10, 13, 18, 20, 26, and 27 have been amended.

Claims 1, 3-6, 10, 13, 17, 18, 20, 26, and 27 are pending.

Claims 17, 18, 20, 26, and 27 have been withdrawn from consideration by the Examiner as being drawn to nonelected inventions.

Claims 1, 3 – 6, 10, and 13 are under consideration in the instant application.

2. This Office Action will be in response to applicant's arguments, filed 06/17/2005.

The rejections of record can be found in the previous Office Action, mailed 12/15/2004.

The text of those sections of Title 35 USC not included in this Action can be found in a prior Action.

3. Sequence compliance: The instant application, as amended 06/17/2005, appears to be in sequence compliance for patent applications containing nucleotide sequence and/or amino acid sequence disclosures.

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4. Objections to the claims and specification: Applicant's amendment has obviated the objections of record, except as set forth herein:

Claims 4 and 5 stand objected to because of an apparent typographical error, wherein "B71" was apparently intended to denote "B7-1" or "B7.1".

5. Claim rejection under **35 USC 112, second paragraph**: Applicant's amendment has obviated the rejection of record.

6. Claim rejection under **35 USC 112, first paragraph**: Applicant's amendment has obviated the rejection of record.

Claim rejection under 35 USC 102(b):

7. Applicant's amendment has obviated the rejection of record of claims 1, 4, and 5 over Linsley et al.

8. Claims 1, 3 – 6, 10, and 13 stand rejected under 35 U.S.C. 102(b) as being anticipated by Srinivasan et al. (1999, reference AK on IDS filed 03/24/2003; see entire document), as evidenced by the instant specification on page 14, for the same reason as set forth in the previous Office Action, mailed 12/15/2004.

Applicant's arguments have been fully considered but have not been found convincing.

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Applicant argues that Srinivasan et al. do not enable a peptide mimetic as recited in the instant claims because they do not disclose the sequence or length of such peptide mimetic.

This is not found persuasive, because, as noted in the previous Office Action, Srinivasan et al. teach a CD28 retro-inverso peptide analog, while the instant specification evidences on page 14, lines 18 – 19, that the CD28 retro-inverso peptide analog has the sequence of SEQ ID NO:6. Therefore, the sequence of the claimed peptide mimetic is the inherent property of the peptide mimetic taught by Srinivasan et al.

It appears that the reference of Srinivasan et al. is a published proceeding of a presentation at a scientific meeting or a conference. In the event that the sequence of the peptide mimetic was disclosed at the meeting or conference, Srinivasan et al. enable the teachings as a prior art against the instant claims under 35 USC 102(b).

Therefore, the rejection of record is maintained for the reasons of record, as it applies to the amended claims, pending a response to the requirement for information under 37 CFR 1.105, as set forth supra.

The rejection of record is incorporated by reference herein, as if reiterated in full.

9. The following is set forth in order to make a requirement for information under 37 CFR 1.105.

Reference AK on IDS filed 03/24/2003 (Srinivasan et al., 1999, In: Peptides for the New Millennium, p. 689 – 690) appears to be a published proceeding of a presentation at a scientific meeting or a conference.

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Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application:

A. Did Applicant present the results published in the reference at the scientific meeting or a conference associated with the publication of Srinivasan et al., either in the form of a poster or an oral presentation? If so, was the sequence of the "retro-inverso peptide analog of the parent ligand binding epitope of the CD28 extracellular domain" disclosed to the public?

B. Did Applicant submit an Abstract to the conference, and if so, was the Abstract published and did it disclose the sequence of the "retro-inverso peptide analog" specified above? If an Abstract was submitted, Applicant is requested to provide a copy of the Abstract to aid in the examination of the instant application.

The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR 1.105 that are included in the Applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR 1.97.

The Applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete reply to the requirement for that item.

The response to this requirement will be entered and considered after final.

10. Claim rejection under **35 USC 103(a)**: Applicant's amendment has obviated the rejection of record.

11. Conclusion: no claim is allowed.

12. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is 571-272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ILIA OUSPENSKI

Patent Examiner

Art Unit 1644

August 26, 2005

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